From: George Haeh
To: Microsoft ATR
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Subject: Microsoft Settlement

As a software developer for the past three decades, I have been following developments in this case with considerable professional interest. Well before the advent of Windows, I was deeply versed in IBM mainframe operating system technology and able when necessary as a customer to examine source code in IBM operating systems and program products to diagnose programs or produce modifications.

Microsoft however has a different way of doing business that has been thoroughly documented in depositions and direct evidence.

As proposed, the settlement between Microsoft and the Federal Department of Justice will effectively legalise Bill Gates as the Don Corleone of desktop software. No software firm with any aspiration to profitability will dare compete with any application MS chooses to bundle with its operating system.

Worse still is the prospect that once a new desktop application gains a significant market, the proposed settlement does absolutely nothing to prevent Microsoft with its billions from deciding to write a competing application and bundle it with the operating system, just as they have done to Netscape and Real Networks.

If the original developer of the new application is lucky, it will get an offer it can't refuse from Microsoft.

The ultimate economic result will be that Microsoft will become the sole source of new desktop applications. This proposed settlement utterly smothers competition in desktop applications.

Yes -- Microsoft sells operating systems (and office software) that just about everybody is forced to use to communicate with others -- but why does that monopoly entitle Microsoft to create all sorts of new application monopolies in browsers, instant messaging, media players ad infinitum simply by including new applications with its operating systems for "free"?

For consumer convenience, I could find it perfectly acceptable that Microsoft could include an application bundle with their operating system that would be separately priced, just like their Plus! pack.

To prevent propagation of new monopolies, Microsoft should be required to charge a non-predatory price for each separate application (each application could be unlocked through an internet-accessible registration procedure or with license keys separately available at time of purchase). Other software vendors would then be able to compete with their own application bundles made available the same way on a considerably more level playing field.

And just as important, every MS-supplied application including MS Office would be built

to published operating system interfaces as verified by a master appointed by the court. These interfaces should be made available to outside software developers at the same time they are made available to internal Microsoft application developers (with the proviso that pre-release interfaces are subject to change which will be published externally at the same time as internal publication).

Given Microsoft's key position in the software marketplace, file formats used by its applications and operating systems need to have the same status as programming interfaces to enable the marketplace to compete with equivalent and enhanced products.

Do that and you will have real competition and something to show for all the litigation.

The previous comments were written before the remedy proposal from the Plaintiff Litigating States was filed. Having read this proposal, I am struck by its simple common sense.

The Plaintiff Litigating States' proposal is the sensible and straightforward set of remedies that directly addresses the findings upheld unanimously by the Appeals Court and puts competitors on a level playing field that should have come from the DOJ if the Federal Attorney-general was faithfully doing his duty as counsel to his client's best interests, the American public.

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